

REMARKS

Claims 1-19 are pending in the application. Claims 2, 9, and 15-17 have been amended. Claims 18 and 19 are new. Claims 1 and 12 have been canceled. The specification and drawings have been amended. Applicant submits that no new matter has been added to the application by the amendment.

Drawings

The drawing has been amended to address the Examiner's objections to the drawings as follows:

Fig. 1 has been amended as follows:

- S101 has been corrected to correct a grammatical error;
- S103 has been corrected to be consistent with a paragraph at page 19, lines 13-18 of the specification;
- S104 has been corrected to be consistent with a paragraph at page 20, lines 10-13 of the specification;
- S105 has been corrected to be consistent with a paragraph at page 20, lines 21-27 of the specification;
- S107 has been corrected to be consistent with a paragraph at page 22, lines 13-16 of the specification; and
- S108-S114 have been corrected to correct typographical errors in underneath reference characters.

In view of the above, Applicant respectfully requests reconsideration and withdrawal of the objections to the drawings.

Specification

The Examiner objected to the Title as not being descriptive. Applicant has amended the title to make the title descriptive. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the objection to the title.

The specification was amended to address the Examiner's objections and grammatical error as follows:

- A paragraph at page 5, lines 12-16 has been amended to correct a grammatical error.

In view of the above, Applicant respectfully requests reconsideration and withdrawal of the objections to the specification.

Claim Rejections - 35 U.S.C. § 102

Claim 1

The Examiner rejected claim 1 under 35 U.S.C. § 102(b) as being anticipated by Japanese Laid-Open Patent Publication No. 2000-134467 (Tsuchiya et al.). In view of new claim 18, replacing claim 1, Applicant traverses the rejection.

Tsuchiya et al. is directed to an image processing method which can determine whether an image is a backlight scene. As shown in Fig. 9 and described in the Abstract, the method generates a histogram of luminance levels, counts the number of peak areas (S2), and if the number of peak areas is greater than one, obtains the mean value of the peak values (S5) for determining the exposure.

New claim 18 recites, *inter alia*, "...calculating a peak distance value which indicates the longest distance between peaks in the case that plural peaks exist so that plural distances between respective peaks exist and discriminating that the image is a backlight image when the luminance deviation value is greater than or equal to a first predetermined value and the peak distance value is greater than or equal to a second predetermined value". New claim 18 is supported by Fig. 1, page 15, lines 6-12 and generally at pages 16-23 of the specification.

Tsuchiya et al. does not disclose, teach or suggest calculating a peak distance value which indicates the longest distance between peaks and determining that the image is backlit based on the peak distance value being greater than or equal to a predetermined value as recited in new claim 18. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the §102 rejection of claim 1 as it may be applied to new claim 18.

Claims 2 and 11

The Examiner rejected claims 2 and 11 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0099407 A1 (Matsushima). In view of amending claim 2, Applicant traverses the rejection.

Matsushima is directed to an image processing apparatus for correcting contrast in a backlit image (paragraph [0018]). The process for determining whether an image is a backlit image referred to in paragraph [0071] as a type A image, is shown in Fig. 7 and described at paragraphs [0074] – [0090]. As clearly described, a backlit image is distinguished by measuring the polarization level of the luminance histogram using the frequency and slope of the luminance histogram.

Amended claim 2 recites, *inter alia*, "...obtaining a luminance average value in said luminance histogram, a luminance standard deviation indicative of a degree of dispersion of luminance distribution from said luminance average value, and a peak distance value which indicates a longest distance between peaks in said luminance histogram in the case where plural peaks exist, so that plural distances between respective peaks exist; comparing a distribution discrimination value which can discriminate whether a distribution deviation of the luminance level exists on a low luminance side or a high luminance side in said luminance histogram or not with the obtained peak distance value,...". Amended claim 2 is supported by Fig. 1, page 15, lines 6-12 and generally at pages 16-23 of the specification.

Matsushima does not disclose, teach or suggest calculating a peak distance value which indicates the longest distance between peaks and comparing a distribution function with the obtained distance value as recited in amended claim 2. As noted by the Examiner, Fig. 11, as clearly described at paragraphs [0074]- [0080], merely shows a two peaked histogram with varying slopes of the peaks and does not show, teach or suggest either that the distance between the peaks is measured or that longest distance between peaks is calculated.

In view of the above, Applicant respectfully requests reconsideration and withdrawal of the §102 rejection of claim 2.

Further, it is respectfully submitted that since claim 2 has been shown to be allowable, claim 11 dependent on claim 2, is allowable, at least by its dependency. Accordingly, for all the

above reasons, Applicant respectfully requests reconsideration and withdrawal of the §102 rejection of claim 2.

Claim Rejections – 35 U.S.C. §103

The Examiner rejected claim 3 under 35 U.S.C. 103(a) as being unpatentable over the combination between Matsushima and Tsuchiya et al. Applicant respectfully traverses the rejection.

As shown above, neither Matsushima nor Tsuchiya et al. teach or suggest calculating a peak distance value which indicates the longest distance between peaks and comparing a distribution function with the obtained distance value, as recited in amended claim 2.

Accordingly, it is respectfully submitted that since claim 2 has been shown to be allowable, claim 3 dependent on claim 2 is allowable, at least by its dependency. Accordingly, for all the above reasons, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of claim 3.

The Examiner rejected claims 4, 9 and 10 under 35 U.S.C. 103(a) as being unpatentable over the combination between Matsushima and U.S. Patent Application Publication No. 2003/0002736 A1 (Maruoka et al.). Applicant respectfully traverses the rejection.

Claims 4, 9 and 10 depend from allowable claim 2. Maruoka et al. does not teach or suggest calculating a peak distance value which indicates the longest distance between peaks and comparing a distribution function with the obtained distance value, as recited in amended claim 2. Accordingly, since Maruoka does not make up for Matsushima's deficiency, it is respectfully submitted that since claim 2 has been shown to be allowable, claims 4, 9 and 10 dependent on claim 2 are allowable, at least by their dependency. Accordingly, for all the above reasons, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of claims 4, 9 and 10.

The Examiner rejected claims 5-8 and 15-17 under 35 U.S.C. 103(a) as being unpatentable over the combination between Matsushima and Tsuchiya et al., in further view of Maruoka et al. Applicant respectfully traverses the rejection.

Claims 5-8 and 15-17 depend from allowable claim 2. As shown above, neither Matsushima, Tsuchiya nor Maruoka et al. teach or suggest calculating a peak distance value which indicates the longest distance between peaks and comparing a distribution function with the obtained distance value as recited in amended claim 2. Accordingly, it is respectfully submitted that since claim 2 has been shown to be allowable, claims 5-8 and 15-17 dependent on claim 2 are allowable, at least by their dependency. Accordingly, for all the above reasons, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of claims 5-8 and 15-17.

The Examiner rejected claims 12 and 14 under 35 U.S.C. 103(a) as being unpatentable over the combination between Matsushima and U.S. Patent No. 5,012,333 (Lee et al.). Applicant respectfully traverses the rejection.

Claim 12 has been canceled and replaced by new claim 19. New claim 19 recites, *inter alia*, "...a peak distance obtaining unit which detects one or more peaks from the luminance histogram; an exposure discriminating unit which calculates a peak distance value which indicates the longest distance between peaks in the case that plural peaks exist so that plural distances between respective peaks exist; and discriminates that the image is a backlight image when the luminance deviation value is greater than or equal to a first predetermined value and the peak distance value is greater than or equal to a second predetermined value." New claim 19 is supported by Fig. 1, page 15, lines 6-12 and generally at pages 16-23 of the specification.

Neither Matsushima nor Lee et al. teach or suggest a peak distance obtaining unit which detects one or more peaks from the luminance histogram; and an exposure discriminating unit which calculates a peak distance value which indicates the longest distance between peaks in the case that plural peaks exist so that plural distances between respective peaks exist; and discriminates that the image is a backlight image when the luminance deviation value is greater than or equal to a first predetermined value and the peak distance value is greater than or equal to a second predetermined value, as recited by new claim 19. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of claim 12 as it may be applied to new claim 19.

Further, it is respectfully submitted that since claim 19 has been shown to be allowable, claim 14 dependent on claim 19 is allowable, at least by its dependency. Accordingly, for all the above reasons, Applicant respectfully requests reconsideration and withdrawal of the §103 rejection of claim 14.

The Examiner rejected claim 13 under 35 U.S.C. 103(a) as being unpatentable over the combination between Matsushima and Lee et al., in further view of Maruoka et al. Applicant respectfully traverses the rejection.

Claim 13 depends from allowable claim 19. Accordingly, claim 13 is allowable at least by its dependency. Accordingly, for all the above reasons, Applicant respectfully requests reconsideration and withdrawal of the §103 rejection of claim 13.

Conclusion

Insofar as the Examiner's objections and rejections were fully addressed, the present application is in condition for allowance. Issuance of a Notice of Allowability of all pending claims is therefore requested.

Respectfully submitted,

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